

Senate Bill 151.

Chairman Brenden and committee members,

My name is Mark Robbins. I am a landowner who ranches and operates a small outfitting business in Central Montana.

For me, this bill is here today not for you to micro-manage the FWP but for you to protect individual citizens from an agency that is using its regulatory powers to punish and coerce landowners for what they call lack of cooperation.

I have stated in past sessions that these archery permits have only one goal, and that is to coerce access to private land. In the attached documents you can see that they have now tied archery permits to harvest levels. They have given themselves the ability to restrict hunting in any district down to an individual landowner who they determine has not provided adequate public access. **During the February 2012 Commission meeting when this was adopted Commissioner Dan Vermillion stated, "The commission is also being pretty clear, with this opportunity comes responsibility, and that responsibility is to cooperate to get objectives down."**

This is FWP is using their regulatory authority not to manage wildlife, but to put conditions on a landowner's hunting opportunity if that landowner doesn't provide public access. FWP is calling that cooperation, but from the other side it looks more like extortion.

I'm asking you to protect property owners from an agency that wants to single out individual landowners for different treatment if they don't cooperate with them. Allowing FWP to use a regulation to restrict a landowner's opportunity to hunt his property based on the amount of free public access he provides does create a diminution of property rights, which property owners are specifically protected against by the Montana Constitution.

A letter I received from FWP in September 2012 states, "The matter of access to private land is clearly a landowner decision and in no way are these regulations meant to challenge that right." But access to private land is exactly what these regulations are all about. This kind of approach will not bring the results FWP is looking for.

I would ask for your support of SB 151.



Montana Fish, Wildlife & Parks

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Dear Landowner:

As a landowner in central or eastern Montana, you are probably aware of recent discussions on archery elk hunting opportunities and elk management. Because you may potentially be affected by regulation adjustments recently made by the Fish, Wildlife & Parks (FWP) Commission, we wanted to clarify those changes and provide background.

Montana has many special places to hunt elk, as a result of the landscape, elk numbers and, in some cases, the opportunity to take a trophy bull. These circumstances can also represent challenges relative to: equity of opportunity between archery and rifle hunters; quality of experience, with some hunters frustrated by increasing numbers of hunters and others willing to tolerate those increases in return for the opportunity to hunt each year; and difficulty managing elk numbers, in some instances the result of private lands being open for only limited or no hunter access including limited access opportunities to harvest cow elk. We appreciate that these special opportunities also result in hunter management challenges for landowners.

In a 2008 effort to address these problems in hunting districts where limited bull elk permits for the general rifle season were already in place, the FWP Commission limited the number of archery bull elk permits in the Missouri River Breaks and roughly two dozen hunting districts elsewhere in central and eastern Montana. That decision was made after considering approximately 2,000 public comments. As a result, nonresident hunter numbers have fallen in many of these HDs as archery bull elk permits are not "guaranteed" in the permit drawing. The reaction has been mixed. Some applaud the decision, while others, including some landowners and outfitters, have expressed frustration as the change impacted some local economic opportunities.

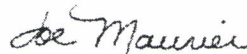
In 2012, the FWP Commission again debated and approved additional regulation adjustments. That action followed the consideration of working group recommendations and more public comment. The adjustments included increasing bull elk archery permits. That change was made partly in response to requests from landowners and outfitters with the reciprocal request from FWP and the FWP Commission that landowners would in turn allow additional public access to bull and cow elk hunters, especially during the rifle season. In particular, this increased opportunity to harvest cow elk is necessary if elk numbers are to be managed to population objectives.

The Commission also adopted the cow elk annual harvest prescription listed below in an effort to reach population objective in not more than six years. This annual prescription represents an increase in the average harvest of cow elk compared to recent years. To assist interpretation of this prescription relative to any increased access you may provide, the average estimated cow harvest from recent years is also listed along with the population objective and current population status based upon most recent survey efforts. In some cases, this first harvest prescription is less than necessary to achieve the population goal within six years, but the FWP Commission directed the department to "start small" in this effort. Proposed annual harvest prescriptions will likely increase in future years. As mentioned above, archery bull elk permit numbers were increased as an incentive to allow additional cow harvest. Again, the request is that landowners allow additional public access to bull and cow elk hunters, especially during the rifle season, in response to the increased number of archery bull elk permits. The FWP Commission asked for an annual review to monitor harvest and progression towards objectives. If there is no increased harvest, the Commission has identified reducing bull permit numbers as a potential if not likely management response.

The matter of access to private lands is clearly a landowner decision and in no way are these regulations meant to challenge that right. Authority to allocate harvest permits for game animals is assigned to the FWP Commission as is the responsibility to manage elk populations. This incentive approach is an effort by the FWP Commission to find some tolerable and effective middle ground. For 2012, FWP understands fire and drought may impact access decisions and will consider these factors in its evaluation.

If you have questions feel free to contact your closest FWP regional office or FWP wildlife sections coordinator Quentin Kujala in Helena. We're hopeful these changes are indeed tolerable and will work for you, Montana's hunters and other interests.

Sincerely,



Joe Maurier
Director

HUNTING DISTRICT 417 POPULATION OBJECTIVE: 350 – 400 observed elk
HUNTING DISTRICT 417 POPULATION STATUS: 569 observed elk
HUNTING DISTRICT 417 FIVE YEAR AVERAGE ANTLERLESS HARVEST: 62 antlerless
elk
HUNTING DISTRICT 417 2012 ANTLERLESS HARVEST PRESCRIPTION: 85 antlerless
elk

Elk

Action: Colton moved and Vermillion seconded the motion to:

1. Remove HDs 420 and 455 from elk archery bundle. Apply general license either sex elk during archery season.

2. Assemble the following HDs or portions of HDs into one elk archery bundle. The elk archery permit will be LPT 900-15. For the first year of the biennium (2012), the LPTs will remain as is but any successful applicant will be able to hunt in any of the hunting districts or portions of the hunting districts with the permit. In 2013, the one bundle will be tied to a single LPT identified as 900-15.

HDs 401/403/450 - 350 either sex permits HDs 411/412/426/511/530 - 900 either sex permits HD 447 - 680 either sex permits HDs 500/570 - 180 either sex permits HDs 502/510 (west of Hwy 310)/520 (south and east of West Fork of Rock Crk)/575 - 150 either sex permits HD 580 (south of Sweetgrass Creek) - 130 either sex permits HD 590 and portion of HD 701 north of the Yellowstone River, south of Hwy 12 and west of Sumatra-Myers Road - 450 either sex permits HDs 702/704/705 - 860 either sex permits. TOTAL of 3700 either sex permits

3. Total permits for 2012 would be set at 3700 permits. The permits would be available as first and second choice only.

This permit level may be adjusted in May-July for the following calendar year (July 2012 adoption would address the permit level for 2013 hunting season). These permits and their review would be addressed in an annual cycle.

4. These permits would be either sex in all of the above areas for 2012 hunting season.

5. Harvest prescriptions would be developed and presented to the Commission in May-July for the coming hunting season (July 2012 adoptions would address the harvest prescriptions for 2012 hunting season). Development, public/Commission review and Commission adoption of prescriptions would include consideration of elk population objectives, elk population status, a 6-year window for reaching objective and consideration of circumstances to include education and tolerance for small steps forward early in this 6-year window. These prescriptions would be developed at the appropriate scale (hunting district or group of hunting district) relative to how the management objective is defined and how monitoring information is collected. Monitoring would include harvest surveys and winter flight information. These permits and their review would be addressed in an annual cycle.

6. After the 2012 hunting season, LPT 900-15 would be available for different applications in individual HDs within the bundle. The FWP Commission would assess annual performance in May-July. If performance expectations were met within a HD, the permit would remain valid for either sex throughout the HD. If performance expectations were not met within a HD, the permit could be restricted to other sex/age classes or landownerships within the specific HD to include but not limited to antlerless only, either sex on public lands only, spike bull/antlerless, etc.). July 2013 adoptions would address the 2013 hunting season. After the 2012 hunting season, the regulation booklet and application packet would only identify the dates for LPT 900-15 within any one HD in the bundle. The booklet would further state "Permit definition based on elk population status. See Final adoption in July". After the July Commission adoption, the list of HDs and how LPT 900-15 may be variously applied in those districts would be made available to the public. All districts would remain in the bundle regardless of performance. However, the age/sex class or landownership that the permit would be valid for any one HD within the bundle may be variably adjusted. For example, a hunter holding the 900-15 permit may hunt any of the HDs within the bundle but may hunt either sex elk in one but only spike bulls or antlerless in another. The Commission may also remove a hunting district from this bundle and apply a more restrictive season for bulls based upon performance.

7. In addition to existing HD-specific antlerless elk harvest opportunities, 1000 antlerless elk B licenses would be made available for use on private lands only within this bundle. This B license would be LPT 900-80 and would be valid during both the archery (with archery equipment only) and rifle seasons. (This will be applied to private lands outside Block Management Areas.)

Vito Quatrero said it is a good compromise. The antlerless B tags should have wording changed to "up to" 1,000. He is not in favor of removing 420 and 455 - it helps archers but not rifle hunters. Increase rifle hunter tags.

Steve Kamps said this improves mobility. FWP has made a few improvements.

Tom Madden does not remember a public meeting on this proposal. A lot of time and energy was put into the elk management plan, and it isn't used.

Robert Allen sees a problem if it is first and second choice.

John Gibson is concerned that it is across the board commercialization and privatization of public wildlife.

Ben Lamb supports the Commissions efforts.

Mac Minard supports this.

Vermillion clarified that "up to" 1000 B licenses would be offered.

Action on Motion: Motion carried.

Action: Moody moved and Colton seconded the motion to:

Maintain status quo season structure for the following HDs, and permit numbers for 2012 would be set as follows with

annual change opportunities in May –July for the following calendar year (July 2012 adoption would address the permit

level for 2013 hunting season). Note removal of HD 701 per other season recommendation.

HDs 410/417 – 1900 permits

HDs 620/621/622 –1400 permits

HDs 700 –705 permits

Motion carried.